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09/923,618	08/07/2001	Fumitake Yodo	SONYJP 3.3-1245 DIV II	1742
530 7590 07/12/2010 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER THEIN, MARIA TERESA T	
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4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
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8 *Ex parte* FUMITAKE YODO  
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11 Appeal 2009-011128  
12 Application 09/923,618  
13 Technology Center 3600  
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16 Decided: July 12, 2010  
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19 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and  
20 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.  
21 FETTING, *Administrative Patent Judge*.

22  
DECISION ON APPEAL

STATEMENT OF THE CASE

Fumitake Yodo (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claim 11, the only claim pending in the application on appeal.

We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION<sup>1</sup>

We REVERSE.

THE INVENTION

The Appellant invented an accounting system that can communicate with the accounting center (Specification 1:Technical Field).

An understanding of the invention can be derived from a reading of the sole remaining claim 1, which is reproduced below [bracketed matter and some paragraphing added].

11. A data processing method in an accounting system including an accounting center and a terminal device communicating with the accounting center, the method comprising the steps of:

[1] storing accounting points in a first memory of the terminal device;

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<sup>1</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed May 8, 2007) and Reply Brief ("Reply Br.," filed October 29, 2007), and the Examiner's Answer ("Ans.," mailed August 29, 2007).

[2] storing distributed information distributed from an external source and attributes corresponding to the distributed information in a second memory of the terminal device and setting the attributes to an unavailable state;

[3] updating the accounting points stored in the first memory of the terminal device and updating the attributes of the distributed information from the unavailable state to an available state when the accounting points are updated correctly based on the distributed information;

[4] transmitting the accounting points stored in the first memory of the terminal device to the accounting center;

[5] carrying out an accounting processing in the accounting center based on the accounting points transmitted from the terminal device, and

[6] restoring the accounting points in the first memory to an initial value after receiving a notification from the accounting center indicating that the accounting processing has ended normally.

## THE REJECTIONS

The Examiner relies upon the following prior art:

Peterson                      US 5,857,020              Jan. 5, 1999

Claim 11 stands rejected under 35 U.S.C. § 102(e) as anticipated by Peterson, and alternatively, under 35 U.S.C. § 103(a) as unpatentable over Peterson.

## ARGUMENTS

The Appellant argues there is no transmission of the accounting points from the terminal device to the accounting center and no accounting process carried out in the accounting center based on the accounting points transmitted from the terminal device to the accounting center. Appeal Br. 3-4.

ISSUES

The issue of whether the Examiner erred in rejecting claim 11 under 35 U.S.C. § 102(e) as anticipated by Peterson or alternatively under 35 U.S.C. § 103(a) as unpatentable over Peterson turns on whether Peterson describes transmission of the accounting points from the terminal device to the accounting center and an accounting process carried out in the accounting center based on the accounting points transmitted from the terminal device to the accounting center as in limitations [4] and [5].

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

*Facts Related to the Prior Art - Peterson*

01. Peterson is directed to controlling access by a user to encrypted data content by defining a time period during which the data is decrypted. Peterson 2:23-31.
02. Peterson describes online communication with a server at an authorization center. A terminal transmits an authorization request message, including the identifier of a movie to be viewed and the identifier of the consumer to the server. The server uses this data to retrieve the corresponding movie control record and consumer account record stored in its database. The server applies the amount specified for cost of usage in the control record against the consumer's account and where sufficient funds or credits are present, subsequently generates an authorization granted message

that indicates: the identifier of the secured content to which access is now authorized; the start date and time at which access to the secured content (*i.e.*, unlocking) may be enabled; the expiration date and time after which authorization lapses; and the usage limit. Peterson 8:4-23.

03. Peterson describes each consumer purchasing the right to view the movie once for a certain fee, for example \$5.00, through online access to an authorization center. Thereafter, the consumer pays for viewing of the movie either on a pay-per-use basis or over a defined window of time, and perhaps for reduced fee such as \$1.00. Peterson 2:62-3:1. Peterson does not describe how such payments are implemented and in particular makes no mention of whether any accounting data is sent from a terminal to the server when payment is made.

04. Peterson also describes another embodiment in which a prepaid card is programmed to maintain an amount of funds prepaid by the consumer, a list of authorized access records and a decryption key. The amount of prepaid funds may be adjusted in return for receiving monetary compensation and the particular decryption key updated periodically, for instance, by an authorization center which the consumer may visit for manual updating of these values or through an automatic online process. Peterson 9:44-53.

## ANALYSIS

Claim 11 has six steps. The first three steps start with some information that is altered in a terminal. Step 4 transmits some accounting information

1 to an accounting center where step 5 processes the accounting information.  
2 Step six resets information in the terminal. Peterson describes a terminal  
3 device in which a user contacts an online server for authorization to view or  
4 listen to content encrypted within the terminal. The Examiner found this  
5 online processing to meet limitation [5]. Separately, Peterson describes  
6 purchasing the right to view the movie once for a certain fee through online  
7 access to an authorization center. The Examiner found this online  
8 processing to meet limitation [4]. Ans. 3-4. The Appellant argues the  
9 transmission includes no accounting points and this process carries out no  
10 accounting. Appeal Br. 5-6.

11 The Examiner responds by citing to yet a different portion of Peterson  
12 describing funding a prepaid card. The Examiner found that this recitation  
13 in Peterson described adjusting funds and that if the adjusting occurs at the  
14 accounting center, the remaining fund amount must be transmitted so the  
15 remaining funds may be aggregated with the added funds, and the  
16 accounting must occur at the server. Ans. 5-6. To this finding, the  
17 Appellant responds that the claim requires that the accounting points are the  
18 same points throughout the claim, not two disparate sets of information in a  
19 funding transaction and a separate rental transaction. Reply Br. 2-3.

20 Here we agree with the Appellant that the Examiner has not shown that  
21 the two transactions in the Examiner's findings would be transmitted and  
22 processed in the same transmission and process. The accounting points,  
23 transmitted in limitation [4], are those points that were initially stored in step  
24 [1] and updated in step [3] at the same time that the distributed information  
25 had its status changed from unavailable to available. In the transaction that  
26 would correspond to this state change in Peterson, the only data sent to the

server is the content ID and the customer ID. FF 02. While Peterson may transmit accounting information to the server when a prepaid card is funded (FF 04), Peterson does not describe the actual implementation (FF 03) so such a transmission of accounting points that were updated when the content status changed is not inherent. Accordingly, the Examiner's finding of anticipation is in error.

The Examiner's alternative rejection over obviousness is predicated on an alternative construction of the initial value. Ans. 5. As the initial value in limitation [6] is not at issue, the Examiner's alternative construction does not remedy the error in the Examiner's prima facie case.

#### CONCLUSIONS OF LAW

The Examiner did err in rejecting claim 11 under 35 U.S.C. § 102(e) as anticipated by Peterson.

The Examiner did err in rejecting claim 11 under 35 U.S.C. § 103(a) as unpatentable over Peterson.

#### DECISION

To summarize, our decision is as follows.

- The rejection of claim 11 under 35 U.S.C. § 102(e) as anticipated by Peterson is not sustained.
- The rejection of claim 11 under 35 U.S.C. § 103(a) as unpatentable over Peterson is not sustained.



REVERSED

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